

Funderburk, Patti

From: Fitzpatrick, Fidelma
Sent: Wednesday, September 21, 2016 11:35 AM
To: Scudder-Levin, Jennie
Subject: FW: Dr. Blaivas Deposition--August 29

Fidelma L. Fitzpatrick | Attorney at Law | Motley Rice LLC 321 South Main Street, 2nd Floor | Providence, RI 02903-7109
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-----Original Message-----

From: Fitzpatrick, Fidelma
Sent: Monday, August 29, 2016 9:40 AM
To: Tracy J. Van Steenburgh <tvan@nilanjohnson.com>
Cc: Perry, Elizabeth <eperry@motleyrice.com>; Jo P. Marquardt <jmarquardt@nilanjohnson.com>; Thompson, Fred <fthompson@motleyrice.com>; Orent, Jonathan D. <jorent@motleyrice.com>
Subject: Re: Dr. Blaivas Deposition--August 29

We can agree to disagree on what happened here. Please let me know if you need a call in number or if you will be at today's deposition in person.

> On Aug 29, 2016, at 9:36 AM, Tracy J. Van Steenburgh <tvan@nilanjohnson.com> wrote:

>

> I contacted Libby last night and again this morning via email.

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> And I did not mean deposition but report. Dr. Blaivas issued a Wave 1 report for Exact but did not adopt it for Wave 3. He did not issue a new report for Wave 3.

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>> On Aug 29, 2016, at 9:28 AM, Fitzpatrick, Fidelma <ffitpatrick@motleyrice.com> wrote:

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>> The notice will be filed momentarily and the deposition will proceed at noon today - your withdrawal of your notice two hours in advance does not cancel the deposition, just you're right to proceed with your notice.

>>

>> What prior TVT-Exact deposition are you referring to? You failed to take one in Wave 1 and Wave 2 so no deposition exists.

>>

>>> On Aug 29, 2016, at 9:25 AM, Tracy J. Van Steenburgh <tvan@nilanjohnson.com> wrote:

>>>

>>> Fidelma--It is our understanding that Plaintiffs have not adopted Dr. Blaivas' TVT-Exact general report for Wave 3 cases and he has not issued a separate report for Wave 3 cases. Thus, there is no general deposition that needs to be taken of Dr. Blaivas in Wave 3 for TVT-Exact. We have cancelled the deposition and the court reporter and will issue a notice of cancellation momentarily. Because the deposition is cancelled, we will not be making an appearance. Should you decide to take Dr. Blaivas' deposition, please serve a notice and provide dates. Thanks.

>>>

>>> TRACY J. VAN STEENBURGH



>>> Attorney

>>> 612.305.7521

>>> tvan@nilanjohnson.com

>>>

>>>

>>> -----Original Message-----

>>> From: Fitzpatrick, Fidelma [mailto:ffitzpatrick@motleyrice.com]

>>> Sent: Monday, August 29, 2016 7:45 AM

>>> To: Tracy J. Van Steenburgh <tvan@nilanjohnson.com>

>>> Cc: Perry, Elizabeth <eperry@motleyrice.com>; Jo P. Marquardt

>>> <jmarquardt@nilanjohnson.com>; Thompson, Fred

>>> <fthompson@motleyrice.com>; Orent, Jonathan D.

>>> <jorent@motleyrice.com>

>>> Subject: Re: Dr. Blaivas Deposition--August 29

>>>

>>> We have the reporter and will be using your notice. Thank you.

>>>

>>>> On Aug 29, 2016, at 8:43 AM, Tracy J. Van Steenburgh <tvan@nilanjohnson.com> wrote:

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>>>> If you are going to proceed with the deposition, please serve a separate notice and arrange your own court reporter. I will let you know if I will appear by phone or in person.

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>>>> On Aug 29, 2016, at 8:38 AM, Fitzpatrick, Fidelma

<ffitzpatrick@motleyrice.com<mailto:ffitzpatrick@motleyrice.com>> wrote:

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>>>> Tracy - we will conduct an exam on Dr Blaivas in all Wave 3 cases on all products today pursuant to your notice. I understand that you are waiving your right to so examine pursuant to that notice but the Plaintiffs are not prepared to also waive their rights. We will arrange for a reporter to be present as I understand that you have cancelled yours. Please let me know if you wish to attend in person or by phone.

>>>>

>>>> Fidelma L. Fitzpatrick | Attorney at Law | Motley Rice LLC

>>>> 321 South Main Street, 2nd Floor | Providence, RI

>>>> 02903-7109<x-apple-data-detectors://2/1> |

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>>>> 401.374.7685<tel:401.374.7685> | f. 401.457.7708<tel:401.457.7708>

>>>>

>>>> On Aug 29, 2016, at 8:33 AM, Tracy J. Van Steenburgh <tvan@nilanjohnson.com<mailto:tvan@nilanjohnson.com>> wrote:

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>>>> Fidelma,

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>>>> We were under the impression that the Wave 1 deposition had been adopted for Wave 3. I had asked Libby to confirm and she did not. I have not seen a Wave 3 general deposition on Exact from Dr. Blaivas.

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>>>> Assume you can ask the questions you have for Dr. Blaivas in the two cases in Wave 3 where he has been named as an expert at trial, as you had not noticed your own deposition for his testimony that you wish to elicit. Deposition was noticed by defendants and notice of deposition will be withdrawn.

>>>>

>>>> Thanks.

>>>>
>>>> TRACY J. VAN STEENBURGH
>>>> Attorney
>>>> 612.305.7521
>>>> tvan@nilanjohnson.com<mailto:tvan@nilanjohnson.com>
>>>>
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>>>> -----Original Message-----
>>>> From: Fitzpatrick, Fidelma [mailto:ffitzpatrick@motleyrice.com]
>>>> Sent: Monday, August 29, 2016 6:56 AM
>>>> To: Tracy J. Van Steenburgh
>>>> <tvan@nilanjohnson.com<mailto:tvan@nilanjohnson.com>>
>>>> Cc: Perry, Elizabeth
>>>> <eperry@motleyrice.com<mailto:eperry@motleyrice.com>>; Jo P.
>>>> Marquardt
>>>> <jmarquardt@nilanjohnson.com<mailto:jmarquardt@nilanjohnson.com>>
>>>> Subject: Re: Dr. Blaivas Deposition--August 29
>>>>
>>>> I am planning on attending and conducting an exam. Please confirm that you will also be there or if you need to appear by phone.
>>>>
>>>> On Aug 29, 2016, at 7:45 AM, Tracy J. Van Steenburgh <tvan@nilanjohnson.com<mailto:tvan@nilanjohnson.com>> wrote:
>>>>
>>>> Libby,
>>>>
>>>> Please confirm receipt of my email. Copying Fidelma as well. Thanks.
>>>>
>>>> Tracy
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>>>> On Aug 28, 2016, at 9:17 PM, Tracy J. Van Steenburgh
>>>> <tvan@nilanjohnson.com<mailto:tvan@nilanjohnson.com><mailto:tvan@nilanjohnson.com>> wrote:
>>>>
>>>> Libby,
>>>>
>>>> I am writing to let you know that I am canceling Dr. Blaivas' deposition that is scheduled for tomorrow, August, 29, at his office. I will notify the court reporter. Let me know if you have any questions. Thanks much.
>>>>
>>>> TRACY J. VAN STEENBURGH
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